

UNITED STATES MARINE CORPS
Logistics Operations School
Marine Corps Combat Service Support Schools
PSC Box 20041
Camp Lejeune, North Carolina 28542-0041

MTAC 3205

STUDENT OUTLINE

MOTOR VEHICLE ACCIDENT INVESTIGATIONS

LEARNING OBJECTIVES

1. Terminal Learning Objective: Given the applicable Reference material and a scenario describing a motor vehicle accident to include all completed accident forms and statements, conduct a JAG Manual investigation per the references.

2. Enabling Learning Objectives:

a. Given the references and a scenario describing a motor vehicle accident to include all completed accident forms and statements:

(1) Write the appropriate information in the investigation report for the preliminary statement. (1.12.10a)

(2) Write the findings of fact in the investigation report. (1.12.10b)

(3) Write opinions in the investigation report from the conclusions of the facts. (1.12.10 c)

(4) Write recommendations in the investigation report based on facts and opinions. (1.12.10d)

(5) Arrange the contents of the accident investigation report in the proper sequence. (1.12.10e)

OUTLINE

1. CHARACTERISTICS AND TYPES OF INVESTIGATIONS.

a. Convening Authority. Generally, any officer in command (Including an Officer-In-Charge) can initiate an investigation. In the event of a major incident, however, the officer exercising general court martial authority will retain, or exercise cognizance over the case.

b. Preliminary Inquiry. Conduct of a preliminary inquiry is advised for all incidents potentially warranting an investigation.

(1) Purpose. A preliminary inquiry serves as a tool to determine whether additional investigation is warranted and, if so, how it will be conducted. It also provides the foundation for the Convening Authority to decide which course of action should be taken and is not intended to develop facts extensively or serve as a medium for analyzing facts.

(2) Method. The Convening Authority may conduct the preliminary inquiry personally or through designees. No particular format is required, but the Convening Authority may choose to document the outcome in writing. If the Convening Authority initiates an investigation, the evidence gathered during the preliminary investigation shall be preserved and submitted to the investigating officer.

(3) Time Limitation. Generally, the preliminary inquiry should be completed within three working days. If additional time is required, then either the official conducting the inquiry is attempting to gather too much information or the tasking order was not well defined. The Convening Authority may grant extensions on a case-by-case basis and with limited nature of the preliminary inquiry in mind. Preliminary inquiries into major incidents will usually take longer.

c. Command Options. After considering the results of a preliminary inquiry, the Convening Authority may consult with a cognizant judge advocate for the purpose of obtaining legal advice on how to proceed and shall exercise one of the following options:

- (1) Take no further action.
- (2) Conduct a command investigation.
- (3) Convene a litigation-report-investigation.
- (4) Convene a board of inquiry.

Generally, the primary manner in which the investigation will be used will determine which option should be exercised. The powers the investigative body will require are also important in the selection process. Each type of investigation has limitations or guidelines that must be followed. Resource and time concerns must also be taken into account when selecting an investigation. The more formal the procedure the more resources and time required.

d. Type One: Command Investigation. A command investigation functions to gather, analyze, and record relevant information about an incident or event of primary interest to command authorities.

(1) Limitations. This type of investigation may not be used to inquire into:

(a) Major Incidents

(b) Incidents that have resulted or are likely to result in a claim or litigation against or for the Department of the Navy or the United States.

(c) Incidents causing significant damage to the environment.

(2) Method and Time Limitations. Command investigations are normally convened in writing and conducted by one or more designated personnel. The information is documented in writing in the manner prescribed by the Convening Authority and the evidence is collected through personal interviews, telephone inquiries, or written correspondence. The procedure does not require hearings but may contain sworn statements and the designation of parties is not authorized. The convening authority will prescribe when the report is due, normally 30 days, in the convening order. The convening authority may grant extensions to the due date if necessary.

e. Type Two: Litigation-Report Investigation. When an incident or event is likely to result in claims or civil litigation against or for Department of the Navy or the United States, the primary purpose of the resulting investigation is often to prepare to defend the legal interest of the United States.

Litigation report investigations differ from command investigations in that it is:

(1) Convened only after consultation with a cognizant judge advocate.

(2) Conducted under the direction and supervision of that judge advocate.

(3) Conducted primarily in anticipation of claims or litigation against the government and are forwarded to the judge advocate general.

(4) Not be used to investigate a major incident.

(5) Not designate parties and do not involve hearings.

During the conduct of this type of investigation, the judge advocate is not the investigating officer, but the investigating officer does work under the direction and supervision of the judge advocate. The convening order shall identify the judge advocate under whose direction and supervision the investigation is to be conducted and direct the investigating officer to report to that judge advocate before beginning to collect evidence, and to comply with the judge advocate's direction and supervision thereafter. Opinions or recommendations will not be requested in the convening order. The order shall specify when the investigative report is due. The order shall state specifically that: "This investigation is being convened and your report is being prepared in contemplation of litigation and for the express purpose of assisting attorneys representing the interests of the United States in this matter.

(1) Method and Time Limitations: Litigation report investigation shall be convened in writing and are conducted by one or more persons acting under the supervision of the judge advocate. Evidence can be collected by personal interviews, telephone inquiries, written correspondence, or other means. The report will be documented in writing in the manner prescribed by the cognizant judge advocate and shall not contain sworn statements signed by witnesses. The convening authority will prescribe when the report is due, normally 30 days from the convening order and may grant extensions at the request of the cognizant judge advocate.

f. Type Three: Courts and Boards of Investigation. Courts and Boards of Inquiry should be reserved for the investigation of major incidents or serious or significant events.

(1) Characteristics of Court of Inquiry. This type of investigation will:

(a) Be convened by persons authorized to convene General Courts-Martial or so designated by the Secretary of the Navy.

(b) Consist of at least three commissioned officers as members and also have appointed legal counsel for the court. It may also include advisors appointed to assist the members.

(c) Be convened by written appointing order.

(d) Use a hearing procedure. All testimony will be taken under oath and a verbatim record of the proceedings will be kept. Formal rules of evidence apply.

(e) Possess the power to designate parties.

(f) Possess the power to subpoena civilian witnesses to appear.

(2) Characteristics of Board of Inquiry. This type of investigation will:

(a) Be convened by persons authorized to convene General Court Martial.

(b) Consist of one or more commissioned officers, and should have appointed legal counsel for the board. It may also include advisors appointed to assist the members.

(c) Be convened by written appointing order, which should direct that all testimony be taken under oath and all proceedings be recorded verbatim.

(d) Will use a hearing procedure.

(e) Possess the power to designate parties.

(f) Does not possess the power to subpoena witnesses unless convened under article 135.

g. Personnel Authorized to Conduct Investigations. Personnel detailed to conduct an investigation shall be individuals who, in the opinion of the convening authority, are best qualified by reason of their age, education, training, experience, length of service, and temperament. Most command or litigation-report investigations will be conducted by a commissioned officer, but a warrant officer, senior enlisted person, or civilian employee may also be used. Whenever practical, an investigating officer should be senior in rank to any individual whose conduct is subject to inquiry.

h. Oaths. Personnel conducting a preliminary inquiry, a command investigation, or a litigation-report investigation need not be sworn. However, should the requirement arise, chapter two of the JAGINST in section 0214 provides the appropriate oath to be used.

i. Types of Evidence. An administrative investigation need not be conducted in accordance with formal rules of evidence applicable to courts-martial. It may use the most effective

methods of collecting, analyzing, and recording all relevant information and may include in its investigative report any relevant matter that a reasonable person would consider to be believable or authentic.

(1) Tangible Evidence. A condition, location, or other characteristic of an item of real evidence that is of value in establishing the existence or non-existence of a fact.

(2) Documentary Evidence. Documentary evidence includes records, logs, documents, letters, diaries, reports and statements.

(3) Witness Statements. Witness statements are also broken down into two categories:

(a) Witnesses not suspected of misconduct or improper performance of duty should be questioned first. Ordinarily, these statements are taken in informal interviews. They can, however, be required to give their testimony under oath.

(b) Witnesses suspected of an offense, misconduct, or improper performance of duty should be questioned last. The investigator should collect relevant information from all other sources before interviewing persons suspected of an offense, misconduct, or improper performance of duty.

Before the interview, military suspects must be advised of Article 31, UCMJ, and warnings. Prior to being asked to provide any statement relating to the origin, incidence, or aggravation of a disease or injury, the affected member shall be warned to the right not to make such a statement. Without this warning, the statement is invalid. Whenever an individual is requested to provide personal information about him or herself in a statement to be maintained in a system of records retrievable by the individual's name or personal identifier, the individual shall be provided in duplicate a privacy act statement.

A privacy act statement must be used if a member or employee is asked to voluntarily provide his or her social security number. If the social security number is obtained from other sources, the individual need not to be provided a privacy act statement.

2. INVESTIGATIVE REPORTS.

a. Convening Order. Convening orders must be in official letterform addressed from the Convening Authority to the senior member of the board or court or to the investigating officer of a command or litigation-report investigation. When circumstances warrant, an investigation may be convened by oral or message

order. Signed, written confirmation of oral or message orders must be issued in each case and included in the investigative report.

b. Convening orders must recite the specific purposes of the inquiry and contain explicit instructions about its scope, requirement for finding of facts, opinions, and recommendations. It will contain directions for complying with the Privacy Act, and Article 31, UCMJ. Convening orders may also be amended if the convening authority decides to change the membership, limit or increase the scope of the inquiry, or provide additional instructions.

c. Report Format. Investigative reports shall be submitted in the format prescribed by the convening authority or, in the case of a litigation-report investigation, by the cognizant judge advocate. Normally, a letter format will be specified. The format consists of the following elements:

(1) Preliminary Statement. The preliminary statement informs convening and reviewing authorities that all reasonably available evidence was collected or is forthcoming and each directive of the convening authority has been met. It will also outline any difficulties encountered during the conduct of the investigation. The preliminary statement in a litigation-report investigation shall state expressly that the report was prepared under the supervision of a judge advocate in contemplation of litigation by or against the United States. A preliminary statement does not eliminate the necessity for findings of fact.

(2) Findings of Fact. Findings of fact must be as specific as possible as to times, places, persons, and events. Make each fact a separate finding, and cite the enclosure supporting each finding.

(3) Opinions. Opinions are reasonable evaluations, inferences, or conclusions based on the facts found. Each opinion must cite the findings of fact upon which it is based. Opinions shall not be expressed unless requested by the convening authority, or by the cognizant judge advocate in the case of litigation-report investigation.

(4) Recommendations. Recommendations depend on the nature of the facts found and opinions expressed. Recommendations shall not be offered unless requested by the convening authority, or cognizant judge advocate in the case of a litigation-report investigation.

(5) Authentication. The investigating officer or senior member respectively, must sign the investigative report. Dissents may be written and, if written, must be attached to the report. The investigating officer and the cognizant judge advocate should both sign the investigative report, if however, they cannot agree on a particular portion of the report, then the judge advocate alone shall sign the report.

(6) Enclosures. The first enclosure is the signed, written appointing order or signed, written confirmation of an oral or message appointing order. Subsequent enclosures should contain evidence developed by the investigation. Enclosures should be listed in the order in which they are cited in the body of the investigation.

3. COMPUTING MILITARY LABOR RATES AND MAINTENANCE COSTS

a. To estimate repair cost to determine whether an item is economically repairable, the following elements of costs shall be included as applicable:

(1) Direct labor cost is determined by figuring in the following:

(a) Hours recommended in the equipment technical manual Maintenance Allocation chart (MAC) or commercial flat rate manuals to repair or replace the particular items.

(b) Direct labor hourly rate for military or civilian workers. Civilian hourly rates differ depending upon which depot maintenance activity (DMA) is performing the repairs. Direct civilian and military labor costs can be found in MCO 4710.8.

(c) When labor hours and labor cost are identified, they are computed to determine the estimated direct labor costs. Example:

Labor Hours (23) X Labor Cost (\$42.42) = Direct Labor Cost
(975.66)

(2) Direct material cost includes all materials (components and assemblies) applied directly to the item being repaired. (Example: \$43,627.00 is needed to replace the engine, transmission, transfer, and intermediate axle.) The Federal Logistics Data on Compact Disc (FED LOG) can be used to find the costs of the materials.

(3) Indirect or overhead costs which are included in the total labor man-hours shall include the following:

(a) Manufacturing or production expenses, such as costs incurred in general management or supervision which are measurable cost chargeable to the maintenance activity. Of the total man-hours at a cost of \$42.42 per hour, \$7.93 of that total is for production expense. MCO 4710.8 contains data on production in general and administrative costs.

(b) General and administrative expenses, such as costs incurred in general management or supervisions, are measurable costs chargeable to the maintenance activity. Like production expenses, \$16.75 of the total direct labor cost of \$42.42 per hour is included for general and administrative expenses.

(4) Other direct charges/costs to include the following:

(a) Contractual services, if required. If a contractor is to perform a portion of the maintenance, the cost estimate shall show the projected charges for labor and parts furnished in addition to the total contract price.

(b) Readying for shipment costs incurred to prepare the item for shipment regardless of its destination are included in the estimate to repair the vehicle.

(c) The freight cost to ship an item from overseas to a repair facility in CONUS should be included as an element of the costs.

(5) The following costs shall not be included in the estimated cost of repairs:

(a) Cost of such items as tires, batteries, and antifreeze, except where replacement is the result of accidental damage.

(b) The cost of applying modification work orders may be included in the cost of repair estimate only when the modification is applied at the time of repair or induction.

(c) The cost to overhaul or replace accessory items used to adapt the equipment to special uses such as flashing lights, two-way radios, fire extinguishers, tool kits, and so forth is not to be included in the cost of repair estimates.

(d) Individual Repair Expenditure Limit - This is the maximum allowable repair cost for onetime repair. Expenditure limits for motor transport vehicle maintenance are located in MCO 11240.84.

(1) Expenditure limits are the product of current replacement costs in effect at the time of end item repair multiplied by the applicable cost factor.

(2) The current replacement cost for a motor transport end item can be found in Table 4B1 of MCO P7000.14.

(3) The maximum permissible repair cost for a motor transport vehicle is computed as follows:

(a) First, determine the vehicle's age in months or years since the date of purchase. The vehicle data plate should provide you with the required information.

(b) Next, determine the number of hours or miles of operation since purchase or procurement. The equipment hour meter or odometer and the equipment record jacket should be used to obtain the required information.

(c) Now, determine the cost factor.

(d) After determining the cost factor, determine the current replacement cost of the vehicle. The current replacement cost of a specific model and type of vehicle can be located in Table 4B1 of MCO P7000.14.

(e) Now multiply the replacement cost by the cost factor.

(f) The result is the maximum expenditure permitted for repair of a vehicle up through intermediate maintenance.

(g) The maximum permissible expenditure limit at depot maintenance for rebuild, depot overhaul, or limited depot overhaul is sixty-five percent of the replacement cost. The maximum expenditure limit for depot maintenance may be waived by HQMC upon specific request and upon determination that overriding factors necessitate a waiver.

4. ELEMENTS OF A MOTOR VEHICLE ACCIDENT.

a. General. All but the most minor of accidents involving government vehicles and privately owned vehicles must be investigated. Accidents of \$5,000.00 or less with minor injuries can be adequately documented on Motor Vehicle Accident Report Form (SF91).

When conducting an investigation into a motor vehicle accident, physically observe the damage to property and survey the accident scene whenever practical. If not, obtain photos and often-

relevant documentary evidence. The following facts and opinions shall be included:

(1) Completely identify all vehicles involved. This includes vehicle identification number, license plate number, model, year, and color.

(2) Completely identify all drivers and owners, including name, age, address, (home and work), and telephone numbers. For military members indicate their status at the time of the accident, their grade/rank, and name, address, location and unit identification code. If a government vehicle was involved, identify the unit to which the vehicle is assigned and the individual who authorized its use and its authorized purpose.

(3) Completely identify the time of the accident, light and weather conditions and their effect on driving conditions.

(4) The location of the accident, road and terrain factors, including road characteristics, obstructions to the driver's vision, and traffic signals, and signs.

(5) Estimate speed of vehicles involved as evidenced by witnesses, skid marks, condition of road, and damages to the vehicles and other property.

(6) Actions of other vehicles involved in the accident, including any part played by them in creating the conditions that resulted in the accident.

(7) Traffic conditions and density at the scene and their effect on the accident.

(8) Traffic laws and regulations in force pertinent to the accident, including traffic safety devices, signs and markings. Include any requirement to use safety devices installed in the vehicles.

(9) Mechanical condition of the vehicles.

(10) Physical condition of the driver, or drivers, including intoxication, fatigue, use of medications or drugs, or other medical conditions. The opinion section should address any reasonable interferences that may be drawn from these facts relevant to the cause of the accident.

(11) Driving experience of the driver or drivers both generally and in the type of vehicles being driven, including the state which licensed the drivers and any previous loss of driving privileges and driving related convictions.

(12) Safety devices installed and whether they were being used at the time of the accident.

(13) Conduct of the passengers. Opinions may include reasonable interferences on the effect of any passenger's conduct on the driver.

(14) Facts and opinions relevant to knowledge by any passenger of any impairment of the driver at the time the passenger entered or had a reasonable opportunity to leave the vehicle.

(15) Damage to vehicles fully described and repair costs.

(16) Damage to other property and repair costs.

(17) Nature and extent of personal injuries and medical costs, documented by relevant medical bills, and receipts.

(18) Name, age, address, and telephone number of any witnesses to the accident, and description of their location in relation to the accident scene, their ability to observe from that location, and what was witnessed.

(19) Name, address, and telephone number of any law enforcement official who investigated the accident. A copy of any law enforcement or police report made concerning the accident should be included as an enclosure.

(20) Any civilian or military criminal charges brought or pending as a result of the accident and the ultimate resolution of those charges.

(21) If a private vehicle is involved in the accident, the name, address, policy number, and telephone number of any insurer of the vehicle, including the amount and type of insurance.

(22) An opinion regarding the probable cause of the accident. If the evidence is sufficient to establish probable cause, those factors, which in the opinion of the investigator contributed to the cause of the accident, should be listed.

(23) An opinion regarding the contributory or comparative negligence of any party, if any.

(24) If not included in the facts relevant to military or criminal charges filed, an opinion concerning any laws, articles of the UCMJ, or regulations violated.

(25) Whether or not the vehicles are economically repairable, and if not, their salvage value.

(26) Whether or not the driver (in the case of government vehicle) was acting within the scope of employment pursuant to state or federal law, and whether injuries sustained by military members were incurred in the line of duty or as a result of misconduct.

REFERENCES:

- 1. JAGINST 5800.7C, Judge Advocate General Investigation Manual.*
- 2. MCO P4400.150E, Consumer-Level Supply Policy Manual.*
- 3. MCO P7000.14, Marine Corps Cost Factors Manual.*
- 4. MCO 11240.84, Wheeled Tactical Motor Transport Vehicle Maintenance Expenditure Limits.*